

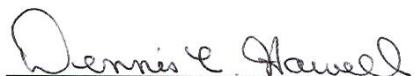
**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:16cv309**

DIANE J. MUTTER,)	
)	
)	
)	
Plaintiff,)	
)	
v.)	
)	ORDER
MELISSA BRAGG, et al.,)	
)	
)	
Defendants.)	
)	

Pending before the Court is the Motion to Dismiss or, in the Alternative, Motion for Summary Judgment [# 12]. The Government, as it often does in civil proceedings involving a *pro se* plaintiff, has filed a motion pursuant to Rule 12(b) and Rule 56. The Court **DENIES without prejudice** the Motion [# 12]. Within ten (10) days of the entry of this Order the Government may file a motion to dismiss pursuant to Rule 12 based on the factual allegations in the Amended Complaint. In the alternative, the Government may file an answer within ten (10) days of the entry of this Order and file a subsequent Rule 56 motion. This Court, however, will no longer consider a “dual” motion that moves under both Rule 12

and Rule 56 or a motion to dismiss that moves in the alternative for dismissal under Rule 56. The Court also **DIRECTS** the Government that going forward it will summarily deny such motions in other civil proceedings without providing the Government the opportunity to file a new Rule 12 motion.

Signed: March 13, 2017


Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

